



April 10, 2006

DGS/Procurement Division
ATTN: Tim Patton
707 3rd Street 2nd Floor (95605)
PO Box 989054
Sacramento CA 95798

RE: Sigarms Inc. Statement of Concern re Specifications of Invitation For Bid
Solicitation # 55268

Dear Mr. Patton,

Sigarms Inc. is a manufacturer of firearms, including pistols. Sigarms has been in business since 1984, providing quality firearms to law enforcement agencies across the country and around the world, including the United States Secret Service, the Federal Air Marshals, the Department of Homeland Security, Dallas Police, San Francisco Police, and others. We supply the pistols issued in eighteen major State Police agencies, including Arizona, Massachusetts, Michigan, Nevada, North Carolina, New Jersey, Ohio, Oklahoma and Texas.

Sigarms recently became aware of an Invitation for Bid by the State of California Department of General Services (DGS), Procurement Division, on behalf of the California Highway Patrol (CHP) for the procurement of 9736 semi-automatic pistols. The Invitation For Bid is identified as Solicitation # 55268. Upon review, we noted that the solicitation expressly restricts the competition to one particular make and model of pistol – the Smith & Wesson Model 4006TSW. Pursuant to paragraph 12 of the solicitation's Bidder Instructions, Sigarms submits this statement of concern regarding what appear to be the unfairly and unduly restrictive specifications of the solicitation. Our concerns are both procedural and substantive.

Procedural Failures

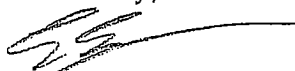
California Public Contract Code section 10301 requires generally that all contracts in excess of \$25,000 be awarded based on open competition. Section 10301 allows competition to be limited under certain conditions, including when the procuring agency and DGS agree that "an article of a specified brand or trade name is the only article that will properly meet the needs of the agency." In the absence of such a determination by DGS, DGS must solicit bids to furnish equivalent equipment made by other manufacturers. See 31 Cal. Op. Atty. Gen. 161, 162 (April 7, 1958). Limiting competition by designating a specific brand or model makes the procurement subject to the provisions regarding Non-Competitively Bid (NCB) Contracts in Chapter 5 of the State Purchasing Authority Manual (PAM). See PAM § 5.1.0. PAM section 5.2.0 requires that agencies desiring to enter into NCB contracts must submit to DGS an NCB justification form. Section 5.2.0 provides that DGS/PD is the review and approval authority for the NCB justification.

Remedy

The solicitation in question unfairly and unnecessarily restricts competition by designating a specific make and model pistol, thereby improperly and wastefully increasing procurement costs by nearly \$2 million. Sigarms Inc. respectfully requests that the solicitation be revoked, revised, and re-issued to eliminate the brand name restriction and provide more fair and open competition. This will allow Sigarms and other firearms suppliers and distributors to submit bids for automatic pistols that will meet all of CHP's substantive needs at lower costs to the State.

If given the chance through fair and open competition, Sigarms would be proud and honored to add the brave officers of the CHP to its long list of satisfied users of its quality firearms. We ask only to be given the chance to try.

Sincerely,



Eric Cook
General Counsel
Sigarms Inc.

cc: Mr. Ron Joseph
Department of General Services
PO Box 989052
Sacramento CA 95798

Ms. Judy Heringer
DGS/Procurement Division
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Commissioner Michael Brown
California Highway Patrol
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Senator Michael Machado – Chair
California State Senate Budget and Fiscal Review Subcommittee #4
State Capitol Room 5019
Sacramento CA 95814

Governor Arnold Schwarzenegger
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